

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 03 SANTO DOMINGO 001971

SIPDIS

DEPARTMENT FOR WHA/CAR (MCISAAC), L/LEI (TAYLOR AND FUENTES)
DEPARTMENT OF JUSTICE FOR CRIM/OIS (MAZUREK, ORJALES,
SOKOHL)
US MARSHAL SERVICE PLEASE PASS TO CHRIS DUDLEY
DEA FOR OF, OFI, DO, DCO

E.O. 12958: N/A

TAGS: [CJAN](#) [KCRM](#) [SNAR](#) [KJUS](#) [PREL](#) [DR](#)

SUBJECT: NEW DOMINICAN EXTRADITION PROCESS RETURNS
FUGITIVES TO THE U.S.

REF: A. 04 SANTO DOMINGO 05858

[B](#). SANTO DOMINGO 00799

[C](#). SANTO DOMINGO 00899

[D](#). SANTO DOMINGO XXXX

[1](#). (U) SUMMARY. Two fugitives have been returned to the United States under the new Dominican extradition process. The Penal Chamber of the Supreme Court issued lengthy opinions in both cases, setting non-binding but advisory precedents that bode well for future extradition cases. Additionally, the executive branch, both through the Attorney General's office and the Office of the Legal Advisor to the President, has been engaged, active and cooperative on extradition matters. The USG can look for continued success in extraditing fugitives from the Dominican Republic to the United States. END SUMMARY.

[2](#). (U) The adoption of a new criminal procedural code in the Dominican Republic changed the extradition process in the Dominican Republic (Refs A & B). Under the provisions of the new code, a captured fugitive has the right to an oral extradition hearing in the Penal Chamber of the Supreme Court. So far, the Penal Chamber has heard the cases of two fugitives, and in each it has found the extradition request of the USG to be valid and executable.

Test case - Quirino Paulino Castillo

[3](#). (U) The first case under the new code was that of Quirino Paulino Castillo (Refs B & C), captured in late December with over 1300 kilos of cocaine. In the highly publicized case, in which some camps argued that extraditing Paulino Castillo amounted to relinquishing Dominican sovereignty to the United States, the Attorney General's office supported the USG request for extradition and worked closely with Embassy officers on a strategy for the first Supreme Court hearing on an extradition case under the new Criminal Procedures Code.

[4](#). (SBU) The Penal Chamber of the Supreme Court held the hearing in stages on January 25, February 1, February 4, with the final decision issued on February 18, 2005. At each stage Dominican Assistant Attorney General Gisela Cueto and the attorney appointed by the Dominican Attorney General's office to represent the USG's interests argued vigorously for the extradition of Paulino Castillo.

[5](#). (U) The Penal Chamber of the Supreme Court issued a single-spaced 45-page decision addressing each of the arguments of the fugitive and finding for the interests of the USG. The decision not only dealt with case-specific motions, but also laid down internal procedure for the Penal Chamber's handling of extradition cases in the future. We are pouching to L/LEI a copy of the decision - due to the length and the technical nature of the language, Embassy officers have not translated it.

[6](#). (U) After the Penal Chamber of the Supreme Court reached its decision, the case returned to the executive branch. The Assistant Attorney General drafted an executive order for extradition and delivered it personally to the Legal Advisor to the President Cesar Pina Toribio at the Presidential Palace. The Legal Advisor quickly reviewed the judgement and hours after the rendering of the Supreme Court's decision, President Leonel Fernandez signed a decree authorizing the departure of Paulino Castillo under escort to the Southern District of New York where he is awaiting trial.

[7](#). (SBU) The first case required particularly close coordination among Embassy officers (DEA, NAS, PA, LEGAT, CONS, ECOPEL), L/LEI, DOJ/OIA and Dominican players. Without the assistance of all of the above, the case may not have reached a successful conclusion.

Case two - the system works - Velazquez Minyetty

18. (U) Hearings on the second contested extradition took place on March 4 and March 11, with the final decision issued on March 29, 2005 with much less publicity. The Assistant Attorney General and the attorney designated to represent the USG's interest at the hearing relied on the arguments they had made in the Paulino Castillo hearing and the Penal Chamber's written decision in that case.

19. (U) The Penal Chamber of the Supreme Court followed the reasoning it used in the Paulino Castillo case in applying to the Velazquez Minyetty case the Dominican Constitution, the bilateral extradition treaty between the United States and the Dominican Republic, the 1988 Vienna Convention on Trafficking in Drugs, and the Dominican criminal procedural. This approach resulted in a 38-page decision granting the USG extradition request and denying the fugitive's request to remain in the Dominican Republic.

110. (U) Within one week of the Supreme Court decision and without Embassy intervention, the executive produced the extradition order and President Fernandez signed it. Minyetty was returned to the Southern District of New York to stand trial (Ref D).

Unintended consequences and future cases

111. (U) An unintended but positive consequence of the high profile Paulino Castillo case and the change in the criminal procedural code is that upon arrest, some fugitives have opted to return to the United States as quickly as possible. So far this year two who would have been subject to the new provisions have waived their rights and returned voluntarily under U.S. Marshal escort to the United States. Another now in custody has told Dominican authorities that he plans to waive his hearing rights.

112. (U) Now that the AG's office, the Penal Chamber of the Supreme Court and the Legal Advisor to the President have some experience with the new code and methodology, we see no obstacles to continued success in returning fugitives to the United States.

Comment

113. (U) Extradition cases have been a bright spot in USG/Dominican relations for the past seven years. The Dominican authorities have sent more than 90 bad guys back to the United States. The new code makes the process more democratic and transparent. Previously, the executive branch alone handled extraditions. The involvement of the judicial branch via public extradition hearings ensures that the defendants' rights are acknowledged and observed and that the public has access to the proceedings.

114. (U) All concerned officials -- both USG and Dominican were a bit apprehensive as the first case made it through the new system. One potential issue was the procedure for representing USG interests in the courtroom -- whether the Dominican authorities would undertake this duty (in the end, they did so). If things had gone badly, we might have had to contemplate renegotiating the bilateral extradition treaty or asking the Dominican executive and legislature to amend the new criminal procedural code. Things went well, however, and the Dominican executive branch has become fully engaged in assisting on extradition requests.

115. (U) The Penal Chamber of the Supreme Court has set non-binding, advisory precedents in extradition cases that guide its future deliberations. Because the legal system is not a case law system, no binding decisions are rendered by the Court -- all decisions are advisory. The Chamber is expected to follow the course it has set with these first two cases and to continue to grant USG extradition requests.

116. (U) Legal Advisor to the President Cesar Pina Toribio moved the Velazquez Minyetty case quickly and efficiently through his office, in contrast to the previous administration. Repeatedly during the Mejia days the Ambassador found himself asking the President to instruct his Legal Advisor to pass him the executive decrees for signature. The change in this area signals shorter waiting periods in returning fugitives to the United States.

117. (U) The improvements under the new system do not mean that there won't be bumps in the road as the USG continues to request the return of fugitives. However, with the first few cases successfully completed, we think we may have moved from unpaved streets to relatively pothole free highways.

118. (U) This cable was drafted by Angela Kerwin.

